HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL NO. 199 OF 2006

BETWEEN

American Baptist Foreign Mission Society, Country of Montgomery, Pennsylvania, USA, rep. by its Power of Attorney Rev. Dr.K. Imotemjen Aier, Langchang, Impur, Mokokchung, Nagaland.

……Appellant

And

The District Collector, Nellore District & others

……**Respondents**

:: JUDGMENT ::

Counsel for the Appellant : Shri Ch. Samson Babu

Counsel for Respondent No.1 : Government Pleader for Revenue

Counsel for Respondent No.2 : Government Pleader for Labour

Counsel for Respondent Nos.3 to 5: None

Dated: 27-02-2006

Per G.S. SINGHVI, CJ

This appeal is representative of the luxury litigation in which influential and moneyed people indulge and consume substantial time of the Court which should ordinarily be used for redressing the grievance of those who are oppressed, suppressed and whose rights are trampled by the executive apparatus of the State.

A perusal of the record shows that the appellant has filed Writ Petition No. 1131 of 2006 for quashing the order passed by Deputy Commissioner of Labour, Guntur (respondent No.2) under Section 33C (2) of the Industrial Disputes Act, 1947 (for short 'the Act') for payment of Rs.67,36,434/- to the workers and the proceedings instituted by the said respondent in the Court of Chief Judicial Magistrate-cum-I Additional Sessions Judge, Nellore for recovery of the amount. It also filed an application for staying the proceedings of C.C.No.1 of 2005 pending in the Court of Chief Judicial Magistrate. The same was registered as WPMP NO.1343 of 2006.

While issuing notice of the miscellaneous petition, the learned Single Judge passed the following order:

> "Interim stay subject to condition that the petitioner deposits the sum of Rs.30,00,000/- which is less than 50% of the amount payable under Section 33C of the Industrial Disputes Act, 1947. In default, the said stay stands vacated and it is open for the respondents to proceed with the auction of immovable property of the petitioner to pay the entire amount payable to the employees under Section 33C of the said Act."

The learned counsel for the appellant made valiant efforts to persuade us to interfere with the interlocutory order passed by the learned Single Judge, but we have not felt impressed. Sri Samson Babu submitted that the amount of

Rs.67 lakhs determined by respondent No.2 includes the wages of the doctors, who do not fall within the definition of 'workman' under Section 2(s) of the Act. But, at the same time, he conceded that a sum of Rs.40 lakhs is due to the workers in the form of wages etc., which have not been paid to them for the last almost seven years.

In the face of the admission made by the learned counsel that wages and other emoluments due to the workers have not been paid for seven years, we do not find any justification whatsoever to interfere with the order of the learned Single Judge. It can only be a matter of wild imagination for us as to how the workers would have survived for all these years, how their children might have been fed, educated and received medical treatment. In our view, by withholding the wages, etc., payable to the workers for seven long years, the appellant will be deemed to have violated various provisions of the industrial legislations. Therefore, it cannot complain against the conditional stay passed by the learned Single Judge.

There is another reason for our disinclination to interfere with the order of the learned Single Judge, namely, non-impleadment of any of the workers as parties to the writ petition. We are quite surprised with the audacious conduct of the appellant in seeking stay of the recovery of wages due to the workers without even impleading them as parties to the writ petition.

With the above observations, the appeal is dismissed.

We would have saddled the appellant with exemplary costs, but refrain from doing so because the learned counsel for the appellant says that his client would deposit Rs.30 lakhs with respondent No.2 within a period of six weeks.

In order to facilitate the distribution of wages to the workers without involvement of any middlemen, we direct Labour Commissioner, Andhra Pradesh to personally supervise the disbursement of amount to the workers within two weeks of its deposit by the appellant.

We also direct that if the appellant fails to deposit the amount in terms of the undertaking given before this Court, Labour Commissioner, Andhra Pradesh shall move this Court for initiation of proceedings under Sections 2, 3,12 and 14 of the Contempt of Courts Act, 1971.

The Court Officer is directed to handover an attested copy of this order to the learned Government Pleader for Labour for being sent to Labour Commissioner, Andhra Pradesh.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

27-02-2006

ksld/svs/vtv